**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**CRIMINAL APPELLATE JURISDICTION**
**CRIMINAL APPLICATION NO. 3043 OF 2005**

Vijay @ Vijya Rupchandya @ Subrao Kale ...Applicant

vs.

The State of Maharashtra ...Respondent

Mr.Umesh Mankapure for the Applicant
Ms M.M.Deshmukh,A.P.P. for State

**CORAM: A.S.OKA,J.**
**DATE : JUNE 24,2005.**

**P.C.:**

1. Heard Advocate appearing for the Applicant and the learned A.P.P. for State. An offence has been registered against the Applicant and his father under Section 436 read with section 34 of the Indian Penal Code. The complaint is filed by the father-in-law of the Applicant herein. It appears from the prosecution case that there was a dispute between the Applicant and the complainant regarding non-payment of a sum of Rs.4000/- which was allegedly agreed to be paid at the time of solemnization of the marriage between the Applicant and the complainant's daughter. The allegation against the Applicant and his father is that in furtherance of their common intention they set fire to the house of the complainant causing damage worth of Rs.9000/-.

2. The bail application jointly made by the Applicant and his father was heard by the learned Sessions Judge. The prayer made by the Applicant was rejected. However, the father of

the Applicant was ordered to be enlarged on bail on the ground that he was an old person and there was no direct evidence against him.

3. The learned Advocate appearing for the Applicant submitted that the prosecution was relying upon the statement of one Ranjana Sawla Pandhare who has stated that she had seen the Applicant setting fire to the hut/house of the complainant. He pointed out that on the face of it, the version of the said Ranjana cannot be believed and therefore the Applicant is entitled to be enlarged on bail.

4. The learned A.P.P. stated that the said Ranjana is an Eye Witness to the offence and the statement of the said witness establishes the complicity of the Applicant.

5. It appears that the Applicant is in custody from 12th March 2005. Now the investigation is completed and the charge sheet has been filed. The so called Eye witness Ranjana has stated that at about 1.30 a.m. in the morning she came out of her house for watering the plants in front of her house and at that time she saw the Applicant and the co-accused. She also saw the Applicant and the co-accused setting fire to the house of the complainant. As contended by the Advocate for the Applicant, it is very difficult to understand as to how this lady came out of her house at 1.30 a.m. for watering the plants. It is not the case of the prosecution that anyone was

residing in the house when it was set on fire. No criminal antecedents of the Applicant are placed on record. Considering all these factors, a case is made out for enlarging the Applicant on bail.

6. Hence I pass the following order :

i) The Applicant shall be enlarged on bail in connection with C.R.No.19/2005 registered at Velapur Police Station, District Solapur subject to the condition of the Applicant furnishing P.R.Bond in the sum of Rs.10,000/- (Rupees ten thousand only) with one or two sureties in the like amount.

ii) The bail is granted subject to the condition that the Applicant will attend the concerned Police Station once in a week till the conclusion of the trial. The Applicant will not make any attempt in any manner, directly or indirectly, to influence or pressurise the prosecution witnesses and will not tamper with the prosecution evidence.

iii) The Applicant will attend the various dates fixed by the trial Court and will cooperate with the trial Court for expeditious disposal of the trial.

iv) Application is disposed of in above terms.

**JUDGE**